

1080883 - R8 SDMS



"Kerry Gee"
<kcgee@unitedpark.com>
04/14/2008 10:24 AM

To Kathryn Hernandez/EPR/R8/USEPA/US@EPA
cc "'Kevin Murray'" <kmurray@chapman.com>
bcc

Subject Park City Ventures Operations

History: This message has been forwarded.

Kathy:

As per your request for information relating to the discharge of tailings into Ontario Creek from the operations of Park City Ventures, please find attached the following documents:

A letter from Kenneth Alkema to Park City Ventures

A copy of a Summons and Complaint regarding the incident.

A copy of the Notice of Violation and Order.



Kerry Gee Summons and Complaint.pdf Alkema Letter.pdf NOV and Order.pdf

United States District Court

FOR THE

DISTRICT OF UTAH - CENTRAL DIVISION

CIVIL ACTION FILE NO. C-76-37

UNITED STATES OF AMERICA,

Plaintiff

v.

PARK CITY VENTURES, a partnership,

Defendant

SUMMONS

Served: _____ 19____

ROYAL K. BUTTARS

U. S. MARSHAL

By _____

To the above named Defendant :

You are hereby summoned and required to serve upon Rodney G. Snow, Assistant
United States Attorney,

plaintiff's attorney, whose address Room 200 U.S. Post Office and Courthouse,
350 South Main Street, Salt Lake City, Utah, 84101,

an answer to the complaint which is herewith served upon you, within 20 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be
taken against you for the relief demanded in the complaint.

VERL C. RITCHIE

Clerk of Court.

Leah B. Galt
Deputy Clerk.

Date: February 6, 1976.

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Time: FEB 6 1976

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.)
PARK CITY VENTURES,)
a partnership,)
Defendant.)

YERLE C. RITCHIE
Clerk

Civil No. C-76-37

C O M P L A I N T

The United States of America, by authority of the Attorney General, and at the request of the Administrator of the Environmental Protection Agency, alleges that:

I

This is a civil action instituted pursuant to Section 309 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1319, for the imposition of a civil penalty on the defendant for defendant's violation of 33 U.S.C. Sections 1311 and 1342. Authority to bring this action is vested in the Department of Justice by 33 U.S.C. Section 1366.

II

This Court has jurisdiction of the subject matter of this action pursuant to 33 U.S.C. Sections 1319(b) and 1319(d), and 28 U.S.C. Sections 1345, 1355 and 1395(a).

III

Defendant Park City Ventures is a partnership organized and existing under the laws of the State of Utah. The full true names of the general partners conducting or transacting business under the assumed name of "Park City Ventures" are: THE ANACONDA COMPANY and THE AMERICAN SMELTING AND REFINING COMPANY, which are corporations licensed to do business within the State and District of Utah. The named defendant constitutes a "person" within the meaning of 33 U.S.C. Section 1362(5), which provides:

The term "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

IV

Defendant operates a lead and zinc mine and ore processing facility located in the SW 1/4, NE 1/4, of Section 24, T. 2 So., R. 4 E., in Wasatch County, Utah.

V

The Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., provides that pollutants may not be discharged into any of the navigable waters of the United States without a lawfully issued permit. 33 U.S.C. Section 1342. From defendant's facility in Wasatch County, defendant discharges mine drainage waters and some process wastewaters to Drain Tunnel Creek, via the Ontario Drain Tunnel Number 2. Said mine drainage waters and process wastewaters are discharged into the navigable waters of the United States.

VI

On March 28, 1975, the Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") issued defendant a National Pollutant Discharge Elimination System Permit, pursuant to the Administrator's authority under 33 U.S.C. Section 1342 and regulations promulgated thereunder. A copy of said permit is attached hereto and incorporated herein by reference as Exhibit A. Said permit authorizes the defendant to discharge process wastewaters to Drain Tunnel Creek, provided that the quality of such wastewaters complies with certain chemical and physical criteria which are prescribed in Part I, Section A of the permit. Part III, Section B of the permit specifically prohibits the point source discharge of pollutants to the waters of Silver Creek and its tributaries, which waters are navigable waters of the United States. Said permit constitutes the sole authorization for the discharge of wastewaters from defendant's facility described in Paragraph IV herein.

VII

On or about May 6, 1975, defendant caused a discharge of approximately one hundred fifty (150) tons of mill tailings to be discharged to Silver Creek. Such discharge resulted from a break in a tailings line which is a part of the Park City Ventures operation described in Paragraphs IV and V. From May 9 through May 19, 1975, and from May 21 through May 23, 1975, defendant discharged mill tailings from a pipeline into the channel of Ontario Creek, whose channel abuts defendant's ore processing facility. The discharge of tailings into the Ontario Creek channel occurred at a rate in excess of eighty (80) tons per day. Ontario Creek is a tributary of Silver Creek.

VIII

Defendant's discharges described in Paragraph VII constituted point source discharges of pollutants into Silver Creek and its tributary, Ontario Creek, and therefore was in violation of Part III, Section B, of defendant's permit.

IX

Both Silver Creek and Ontario Creek are navigable waters within the meaning of 33 U.S.C. Section 1362(7), which provides:

The term "navigable waters" means waters of the United States, including the territorial seas.

X

33 U.S.C. Section 1362(6), (12), and (14) provide, in pertinent part:

(6) The term "pollutant" means . . . industrial, municipal, and agricultural waste discharged into water . . .

(12) The term "discharge of a pollutant" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source . . .

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, . . . from which pollutants are or may be discharged.

33 U.S.C. Section 1311(a) provides, in pertinent part:

(a) Except as in compliance with this section and sections . . . 1342 . . . of this title, the discharge of any pollutant by any person shall be unlawful.

33 U.S.C. Section 1342 provides, in pertinent part:

(a)(1) . . . the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet . . . such conditions as the Administrator determines are necessary to carry out the provisions of this chapter.

33 U.S.C. Section 1319(d) provides, in pertinent part:

(d) Any person who violates Section 1311, . . . of this title, or any permit condition or limitation implementing any of such conditions in a permit issued under Section 1342 of this title by the Administrator shall be subject to a civil penalty not to exceed \$10,000.00 per day of such violation.

XI

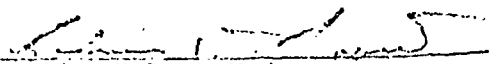
Defendant discharged pollutants in violation of its permit and the above cited statutes on fourteen (14) separate days, to wit:

May 9, 1975
May 10, 1975
May 11, 1975
May 12, 1975
May 13, 1975
May 14, 1975
May 15, 1975
May 16, 1975
May 17, 1975
May 18, 1975
May 19, 1975
May 21, 1975
May 22, 1975
May 23, 1975

WHEREFORE, plaintiff, United States of America, prays:

1. That judgment be entered against defendant, and in favor of plaintiff in the sum of One Hundred Forty Thousand Dollars (\$140,000.00);
2. That the court award plaintiff the costs and disbursements of this action; and
3. That the court grant plaintiff such other and further relief as it deems just and proper.

RAMON M. CHILD
United States Attorney

By 
RODNEY G. SNOW
Assistant United States Attorney

MI
Permit No. UT-0022403

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended,
(33 U.S.C. 1251 et. seq; the "Act").

Park City Ventures, Park City, Utah,

is authorized to discharge from a facility located at Keefley Station, Utah,

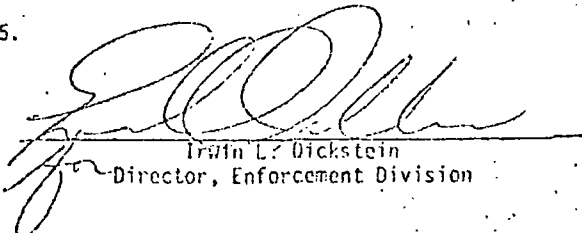
to receiving waters named Drain Tunnel Creek, a tributary of the Provo River,

in accordance with effluent limitations, monitoring requirements and other conditions set forth
in Parts I, II, and III hereof.

This permit shall become effective on the date of issuance.*

This permit and the authorization to discharge shall expire at midnight, December 31, 1977.

Signed this 20 day of March, 1975.


Irwin L. Dickstein
Director, Enforcement Division

*Thirty (30) days after the date of receipt of this permit by the Applicant.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning immediately and lasting until ore processing begins, the permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	kg/day (lbs/day)		Concentration		Measurement Frequency	Sample Type
	Daily Avg	Daily Max	mg/l Daily Avg	mg/l Daily Max		
Flow - M ³ /Day (MGD)	N/A	N/A	N/A	N/A	Continuous	1/
Dissolved Iron	N/A	N/A	N/A	N/A	Quarterly	Composite
Manganese	N/A	N/A	N/A	0.2	Monthly	Composite
Selenium	N/A	N/A	N/A	0.01	Monthly	Composite
Total Dissolved Solids	N/A	N/A	N/A	N/A	Monthly	Composite
Mercury	N/A	N/A	N/A	N/A	Monthly	Composite
Cyanide	N/A	N/A	N/A	N/A	Monthly	Composite
Lead	N/A	N/A	N/A	0.05	Weekly	Composite
Copper	N/A	N/A	N/A	N/A	Monthly	Composite
Zinc	N/A	N/A	N/A	0.5	Weekly	Composite
Total Suspended Solids	N/A	N/A	25	30	Weekly	Composite
Arsenic	N/A	N/A	N/A	N/A	Quarterly	Composite
Cadmium	N/A	N/A	N/A	0.01	Monthly	Composite

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored monthly by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: At the point of discharge from Ontario Drain Tunnel #2.

Oil and Grease shall not exceed 10 mg/l in any grab sample and there shall be no visible sheen. The discharge shall be visually examined weekly for the presence of Oil and Grease.

- 1/ Weir, flume, or other comparably accurate measuring technique.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. During the period beginning as soon as the ore processing begins and lasting through December 31, 1977, the permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	kg/day (lbs/day)		Concentration		Measurement Frequency	Sample Type
	Daily Avg	Daily Max	mg/l Daily Avg	mg/l Daily Max		
Flow - M ³ /Day (MGD)	N/A	N/A	N/A	N/A	Continuous	1/
Lead	N/A	N/A	N/A	0.05	Weekly	Composite
Copper	N/A	N/A	N/A	N/A	Monthly	Composite
Zinc	N/A	N/A	N/A	0.5	Weekly	Composite
Total Suspended Solids	N/A	N/A	25	30	Weekly	Composite
Arsenic	N/A	N/A	N/A	N/A	Quarterly	Composite
Cadmium	N/A	N/A	N/A	0.01	Monthly	Composite
Dissolved Iron	N/A	N/A	N/A	N/A	Quarterly	Composite
Manganese	N/A	N/A	N/A	0.2	Monthly	Composite
Selenium	N/A	N/A	N/A	0.01	Monthly	Composite
Total Dissolved Solids	N/A	N/A	N/A	N/A	Monthly	Composite
Mercury	N/A	N/A	N/A	N/A	Monthly	Composite
Cyanide	N/A	N/A	N/A	N/A	Monthly	Composite

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored monthly by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: At the point of discharge from Ontario Drain Tunnel #2.

Oil and Grease shall not exceed 10 mg/l in any grab sample and there shall be no visible sheen. The discharge shall be visually examined weekly for the presence of Oil and Grease.

1/ Weir, flume, or other comparably accurate measuring technique.

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:

The permittee shall submit to the permit issuing authority in less than ninety (90) days after the issuance of this permit, an implementation plan for an abatement program designed to achieve the effluent limitations specified in this permit for discharge from outfall(s) 001. The implementation plan shall consist of an outline of intended design, construction and operation, including a compliance schedule setting forth the dates by which compliance with the effluent limitations will be reached. The compliance schedule shall include, where appropriate, dates to accomplish the following:

- (a) completion of preliminary plans
- (b) completion of final plans
- (c) award of contract(s)
- (d) commencement of construction
- (e) completion of major construction phases
- (f) completion of all construction
- (g) attainment of operational level

Upon approval of the implementation plan by the permit issuing authority, the schedule of compliance shall become conditions of this permit.

2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

C. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Reporting

Effluent monitoring results obtained during the previous three months shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1 or T-40), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on July 28, 1975. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

U.S. Environmental Protection Agency
Suite 900, 1850 Lincoln Street
Denver, Colorado 80203
Attention: Enforcement - Permits

Utah Division of Health
Bureau of Environmental Health
Water Quality Section
44 Medical Drive
Salt Lake City, Utah 84113

3. Definitions

a. The "daily average" discharge means the total discharge by weight during a calendar month divided by the number of days in the month that the production or commercial facility was operating. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.

b. The "daily maximum" discharge means the total discharge by weight during any calendar day. (See CONTINUATION - next page)

4. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304(g) of the Act, under which such procedures may be required.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person(s) who performed the analyses;

- d. The analytical techniques or methods used; and
- e. The results of all required analyses.

6. *Additional Monitoring by Permittee*

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA No. 3320-1). Such increased frequency shall also be indicated.

7. *Records Retention*

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Regional Administrator or the State water pollution control agency.

CONTINUATION

3. *Definitions (continued)*

b. *(continued)*

This limitation shall be determined by the analyses of a properly preserved composite sample composed of a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow at the time of sampling.

c. The "daily average" concentration means the average concentration during a calendar month. Where less than daily sampling is required by this permit, the average concentration shall be determined by the summation of all measured daily samples divided by the number of days during the calendar month when the measurements were made.

d. The "daily maximum" concentration shall be determined by the analysis of a properly preserved composite sample composed of a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow at the time of sampling.

3. Definitions (continued)

- e. "Net" value, noted under Effluent Characteristics are calculated on the basis of the net increase of the individual parameter over the quantity of that same parameter present in the intake water measured prior to any contamination or use in the process of this facility. Any contaminants contained in any intake water obtained from underground wells shall not be adjusted for as described above and therefore shall be considered as process input to the final effluent. Limitations in which "net" is not noted are calculated on the basis of gross measurements, of each parameter in the discharge irrespective of the quantity or quality of those parameters in the intake waters.
- f. A "composite" sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.

A. MANAGEMENT REQUIREMENTS

1. *Change in Discharge*

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit issuing authority of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

2. *Noncompliance Notification*

If, for any reason, the permittee does not comply with or will be unable to comply with any daily maximum effluent limitation specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information, in writing, within five (5) days of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

3. *Facilities Operation*

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

4. *Adverse Impact*

The permittee shall take all reasonable steps to minimize any adverse impact to navigable waters resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. *Bypassing (See additional requirements under PART III)*

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the effluent limitations and prohibitions of this permit. The permittee shall promptly notify the Regional Administrator and the State in writing of each such diversion or bypass.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewater shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

7. Power Failures

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

- a. In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or, if such alternative power source is not in existence, and no date for its implementation appears in Part I,

- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

B. RESPONSIBILITIES

1. Right of Entry

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials:

- a. To enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

2. Transfer of Ownership or Control

In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Regional Administrator and the State water pollution control agency.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public

inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Act.

4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

5. Toxic Pollutants

Notwithstanding Part II, B-4 above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, A-5) and "Power Failures" (Part II, A-7), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights*

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. *Severability*

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

PART III

OTHER REQUIREMENTS

A. *Additional Bypassing Requirements*

If, for other reasons, a partial or complete bypass is considered necessary, a request for such bypass shall be submitted to the State of Utah and to the Environmental Protection Agency at least sixty (60) days prior to the proposed bypass. If the proposed bypass is judged acceptable by the State of Utah and by the Environmental Protection Agency, the bypass will be allowed subject to limitations imposed by the State of Utah and the Environmental Protection Agency.

If, after review and consideration, the proposed bypass is determined to be unacceptable by the State of Utah and the Environmental Protection Agency, or if limitations imposed on an approved bypass are violated, such bypass shall be considered a violation of this permit; and the fact that application was made, or that a partial bypass was approved, shall not be a defense to any action brought thereunder.

B. *Prohibitions*

There shall be no point source discharge of pollutants into Silver Creek or its tributaries resulting from the permittee's operation.

C. *Additional Monitoring*

The permittee shall monitor Silver Creek, the diversion ditch, and the monitoring wells located in the vicinity below the tailings disposition site monthly for the following parameters: Total Dissolved Solids, Cadmium, Lead, Fluoride, Mercury, and Sulfate (as SO₄). Grab samples will be sufficient. The monitoring reports shall be submitted quarterly and need only be submitted to the Utah Division of Health at the address specified in Part I, C(2).



copy to Mr. Norem

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII
1860 LINCOLN STREET
DENVER, COLORADO 80203

Ref: 3E-PC

NOV 24 1976

Mr. W. C. Norem
General Manager
Park City Ventures
P.O. Box 1450
Park City, Utah 84060

Re: Spoils Dumping

Dear Mr. Norem:

During the inspection of your facilities that Steve McNeal and I made on November 16, 1976, we found that spoils material is being dumped into Ontario Creek.

The dumping of this material into Ontario Creek would technically be a violation of 33 U.S.C. 1311, whenever there is flow in the Creek. This fact was expressed to John Lovering during the inspection.

I would suggest that you eliminate the possibility of these materials entering the creek before flow in the ditch begins.

If you have questions, please call. We are working on your permit modification request and will make a decision by the first of December.

Sincerely yours,

Kenneth Lee Alkema
Chief, Compliance Assurance Section
Enforcement Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

IN THE MATTER OF
NPDES PERMIT NUMBER
UT-0022403;
PARK CITY VENTURES,
KEETLEY STATION, UTAH.

)
)
)
)
)

DOCKET NUMBER 75-24;
NOTICE OF VIOLATION
AND
ORDER
(33 U.S.C. 1319)

FINDING OF VIOLATION

Pursuant to the above-referenced statutory authority, which has been delegated to me by the Administrator, I hereby make the following findings of fact and conclusions of law:

1. Based upon information obtained by representatives of the Environmental Protection Agency and the Utah Bureau of Environmental Health, and information submitted by Park City Ventures (hereinafter, "the Company") in response to a request for information made pursuant to 33 U.S.C. 1318, the Company has violated certain provisions of its NPDES permit, which has been issued pursuant to the provisions of 33 U.S.C. 1342 and regulations promulgated thereunder, 40 C.F.R. Part 125.

2. According to the above described information, the Company has discharged mill tailings from the referenced facility to the waters of Silver Creek and Ontario Creek, which is tributary to Silver Creek. Both watercourses are navigable waters within the meaning of 33 U.S.C. 1362(7). The discharge to Silver Creek, which resulted from a tailings line break, occurred on May 6, 1975. From May 9 to May 19, 1975, and from May 21 to May 23, 1975, the Company dumped the sand fraction of its mill tailings into the Ontario Creek drainage; a portion of this material subsequently entered the waters of Ontario Creek. Analysis of stream samples collected by representatives of the Utah Bureau of Environmental Health have shown that the Company's dumping activities have greatly increased the turbidity of Ontario Creek, and have increased the ambient stream concentrations of manganese and zinc, to wit:

PARAMETER	ONTARIO CREEK ABOVE TAILINGS DISCHARGE POINT	ONTARIO CREEK BELOW TAILINGS DISCHARGE POINT
Total Manganese	0.05 mg/l	2.80 mg/l
Total Zinc	0.10 mg/l	1.5 mg/l
Turbidity	12 J.T.U.	180 J.T.U.

At the present time, an undetermined amount of mill tailings remains on the banks and in the channel of Ontario Creek and Silver Creek.

3. The Company failed to give timely notification of the above described activities to either this Agency or to the State of Utah. The Company did not submit information on its discharges until it received a formal request from this Agency.

4. The discharges of mill tailings described in Paragraph 2 and the failure to give timely notice thereof, as stated in Paragraph 3, constitute violations of the following terms and conditions of the referenced permit:

- a. Since the subject discharges occurred from an unauthorized discharge point, such discharges are in violation of the effluent limitations described in Part I, Section A.
- b. Part III, Section B, prohibits all point source discharges of pollutants to Silver Creek or its tributaries.
- c. Part II, Section A(2), requires the permittee to give written notification to this Agency and the State of Utah of its failure to comply with any daily maximum effluent limitation. Such notice must be given within 5 days of the date the permittee became aware of any such violation.

ORDER

Based upon the foregoing finding of violation and pursuant to the provisions of 33 U.S.C. Section 1319(a)(3), I hereby ORDER:

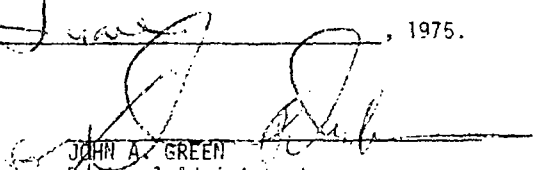
1. That the Company immediately cease all further discharges of mill tailings and other pollutants to the waters of Ontario Creek and Silver Creek.

2. That the Company perform any work necessary to secure the materials already deposited on the banks of Ontario Creek and Silver Creek to prevent such materials from being washed into said watercourses.

3. That the Company perform any work necessary to restore those portions of Ontario Creek and Silver Creek adversely affected by its discharges of mill tailings, including the removal of any materials already deposited within the wetted perimeter of said watercourses.

4. That, no later than thirty (30) days after its receipt of this Order, the Company give written notice of its compliance with the terms thereof. Such notice shall be addressed to: Irwin L. Dickstein, Director, Enforcement Division, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, Colorado 80203.

DATED: This 26th day of July, 1975.


JOHN A. GREEN
Regional Administrator
EPA, Region VIII
Denver, Colorado